IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

Crl.MC.No. 1777 of 2007()

CRIME 110/06,, VENGARA POLICE STATION, MALAPPURAM
CC.1025/2006 of JUDL. MAGISTRATE OF FIRST CLASS, MALAPPURAM

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PETITIONERS:

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1. SUBASH THUKKARAM NAGNE
   S/O. THUKKARAM NAGNE, AGED 36 YEARS
   RESIDING AT DURGA NIVAS,
   DOCTOR COLONY, PATTAMBI ROAD
   EDAPPAL.

2. CHANDRAKANT RAMCHAND BOSLE
   S/O. RAMACHANDRA BOSLE, AGED 41 YEARS
   C/O. PUTHUR JEWELLERY, THRISSUR ROAD
   EDAPPAL.

3. SANJAY BALASAHIB JADHAV
   S/O. BALASAHIB JADHAV, AGED 36 YEARS
   V.K. COLONY, KUTTIPPURAM ROAD.

BY ADV. SRI.M.HARISHARMA

RESPONDENTS:

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1. STATE OF KERALA, REP. BY PUBLIC PROSECUTOR.

2. SUB INSPECTOR OF POLICE, VENGARA POLICE
   STATION, MALAPPURAM.

3. MAHARASHTRA GOLD AND SILVER REFINERS WELFARE
   ASSOCIATION (REG.NO. 67/05) REP. BY SECRETARY
   KUTTIPPURAM, MALAPPURAM.

R1 & 2 BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1777 of 2007

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Dated this the 1st day of June, 2007

O R D E R

The petitioners are accused in a prosecution, inter alia, under Section 420 I.P.C. The crime was registered on the basis of the private complaint filed by the respondents, which was referred by the learned Magistrate under Section 156(3) Cr.P.C. Investigation is now complete. Charge sheet has already been filed. The proceedings is now pending before the J.F.C.M. Court, Malappuram as C.C. 1025 of 2006. The petitioners have appeared before the learned Magistrate and the case now stands posted for decision on the question of charge. The petitioners have at this stage come before this court with a prayer that the proceedings may be quashed.

2. Various contentions have been urged. It is not necessary for me to advert those contentions now. I must alertly remind myself of the nature, quality and contours of the jurisdiction of this Court, which is sought to be invoked. The jurisdiction which is sought to be invoked is the extra ordinary inherent jurisdiction under Section 482 Cr.P.C. Such jurisdiction has to be invoked only in exceptional cases

and that too only to serve the interests of justice. The mere fact that the accused may be entitled for discharge/acquittal at later stages is no reason to justify invocation of the powers under Section 482 Cr.P.C. Ordinarily and normally a person must avail the remedy available under the Code to get an undeserved and unjustified prosecution prematurely terminated. Under Section 239/240 Cr.P.C. he can contend that the charge is not liable to be framed and he is entitled for discharge.

3. It is submitted at the Bar that arguments have already been over on the question of framing the charge. I am not invoking the powers under Section 482 Cr.P.C. now. Needless to say the learned Magistrate must consider the petitioners' prayer for discharge on merits under Section 239/240 Cr.P.C. and pass appropriate orders.

4. This Crl.M.C. is accordingly dismissed.

5. Hand over copy of the order to the learned counsel for the petitioner for production before the learned Magistrate.

(R. BASANT)
Judge

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